

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

FRANCHISE GROUP, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 24-12480 (JTD)

(Jointly Administered)

Hearing Date: December 10, 2024 at 10:00 a.m. ET

Obj Deadline: At or before the hearing

Ref. Nos. 51, 154, 274 & 275

**MOTION OF AD HOC GROUP OF FIRST LIEN LENDERS FOR ENTRY OF
AN ORDER GRANTING LEAVE TO FILE REPLIES IN SUPPORT OF THE
DEBTORS' (1) DIP MOTION AND (2) BIDDING PROCEDURES MOTION**

The Ad Hoc Group of First Lien Lenders and DIP Lenders (the “Movants”), by and through their undersigned counsel, hereby submit the *Motion of Ad Hoc Group of First Lien Lenders for Entry of an Order Granting Leave to File Replies in Support of the Debtors' (1) DIP Motion and (2) Bidding Procedures Motion* (the “Motion for Leave”). In support of the Motion for Leave, the

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of their U.S. federal tax identification numbers, to the extent applicable, are Franchise Group, Inc. (1876), Freedom VCM Holdings, LLC (1225), Freedom VCM Interco Holdings, Inc. (2436), Freedom Receivables II, LLC (4066), Freedom VCM Receivables, Inc. (0028), Freedom VCM Interco, Inc. (3661), Freedom VCM, Inc. (3091), Franchise Group New Holdco, LLC (0444), American Freight FFO, LLC (5743), Franchise Group Acquisition TM, LLC (3068), Franchise Group Intermediate Holdco, LLC (1587), Franchise Group Intermediate L, LLC (9486), Franchise Group Newco Intermediate AF, LLC (8288), American Freight Group, LLC (2066), American Freight Holdings, LLC (8271), American Freight, LLC (5940), American Freight Management Company, LLC (1215), Franchise Group Intermediate S, LLC (5408), Franchise Group Newco S, LLC (1814), American Freight Franchising, LLC (1353), Home & Appliance Outlet, LLC (n/a), American Freight Outlet Stores, LLC (9573), American Freight Franchisor, LLC (2123), Franchise Group Intermediate B, LLC (7836), Buddy's Newco, LLC (5404), Buddy's Franchising and Licensing LLC (9968), Franchise Group Intermediate V, LLC (5958), Franchise Group Newco V, LLC (9746), Franchise Group Intermediate BHF, LLC (8260), Franchise Group Newco BHF, LLC (4123), Valor Acquisition, LLC (3490), Vitamin Shoppe Industries LLC (3785), Vitamin Shoppe Global, LLC (1168), Vitamin Shoppe Mariner, LLC (6298), Vitamin Shoppe Procurement Services, LLC (8021), Vitamin Shoppe Franchising, LLC (8271), Vitamin Shoppe Florida, LLC (6590), Betancourt Sports Nutrition, LLC (0470), Franchise Group Intermediate PSP, LLC (5965), Franchise Group Newco PSP, LLC (2323), PSP Midco, LLC (6507), Pet Supplies “Plus”, LLC (5852), PSP Group, LLC (5944), PSP Service Newco, LLC (6414), WNW Franchising, LLC (9398), WNW Stores, LLC (n/a), PSP Stores, LLC (9049), PSP Franchising, LLC (4978), PSP Subco, LLC (6489), PSP Distribution, LLC (5242), Franchise Group Intermediate SL, LLC (2695), Franchise Group Newco SL, LLC (7697), and Educate, Inc. (5722). The Debtors' headquarters is located at 109 Innovation Court, Suite J, Delaware, Ohio 43015.

Movants respectfully state as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this Motion for Leave pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.² Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory basis for the relief requested herein is section 105(a) of title 11 of chapter 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended or modified, the “Bankruptcy Code”).

BACKGROUND

3. On November 3, 2024 (the “Petition Date”), the Debtors filed with the United States Bankruptcy Court for the District of Delaware (the “Court”) voluntary petitions for relief under title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”).

4. On November 4, 2024, the Debtors filed the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Senior Secured Priming Superpriority Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief [D.I. 51]* (the “DIP Motion”).

² Pursuant to Local Rule of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) 9013-1(f), the Movants hereby confirm their consent to entry of a final order by this Court in connection with this Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

5. On December 2, 2024, the Ad Hoc Group of Freedom Lenders filed the *Objection of the Ad Hoc Group of Freedom Lenders to Final Approval of the Debtors' DIP Motion* [D.I. 274] (the "DIP Objection").

6. Pursuant to the *Interim Order (I) Authorizing the Debtors to (A) Obtain Senior Secured Priming Superpriority Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to the Prepetition Secured Parties, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [D.I. 134] (the "Interim DIP Order"), objections or responses to the DIP Motion were due on or before November 19, 2024 at 4:00 p.m. (ET), which was extended for the Ad Hoc Group of Freedom Lenders to December 2, 2024 (the "Extended DIP Objection Deadline").

7. On November 11, 2024, the Debtors filed the *Debtors' Motion for Entry of Orders (I) (A) Approving Bidding Procedures for the Sale of All or Substantially All of the Debtors' Assets, (B) Scheduling an Auction and a Sale Hearing and Approving the Form and Manner of Notice Thereof, (C) Approving Assumption and Assignment Procedures, and (D) Granting Related Relief; and (II) (A) Approving the Sale of the Debtors' Assets Free and Clear of Liens, Claims, Interests, and Encumbrances, (B) Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Granting Related Relief* [D.I. 154] (the "Bidding Procedures Motion," together with the DIP Motion, the "Motions").

8. On December 2, 2024, the Ad Hoc Group of Freedom Lenders filed the *Objection of the Ad Hoc Group of Freedom Lenders to Debtors' Bidding Procedures Motion* [D.I. 275] (the "Bidding Procedures Objection," and together with the DIP Objection, the "Objections").

9. Pursuant to the *Notice of Motion* attached to the Bidding Procedures Motion

[D.I. 154-1], objections or responses to the Bidding Procedures Motion were due on or before November 25, 2024 at 4:00 p.m. (ET), which was extended for the Ad Hoc Group of Freedom Lenders to December 2, 2024 (the “Extended Bidding Procedures Objection Deadline,” together with the Extended DIP Objection Deadline, the “Extended Objection Deadlines”).

10. A hearing on the Motions is scheduled for December 10, 2024 at 10:00 a.m. (ET) (the “December 10 Hearing”). Replies, if any, to the DIP Motion and Bidding Procedures Motion were due to be filed by December 5, 2024 at 4:00 P.M.

RELIEF REQUESTED

11. Through this Motion for Leave, the Movants respectfully request entry of the proposed form of order attached hereto as **Exhibit A** granting the Movants leave to file replies in support of the DIP Motion and the Bidding Procedures Motion.

BASIS FOR RELIEF

12. Pursuant to Local Rule 9006-1(d), “[r]eple papers by the movant ... may be filed by 4:00 p.m. prevailing Eastern Time the day prior to the deadline for filing the agenda.” Del. Bankr. L.R. 9006-1(d). Since the agenda for the hearing on the Motions was required to be filed on December 6, 2024 at 12:00 p.m. (ET), pursuant to Local Rule 9006-1(d), the deadline to file any reply was December 5, 2024 at 4:00 p.m. (ET). Given the Extended Objection Deadlines, the Movants had less than 72 hours to file replies from the time that the Ad Hoc Group of Freedom Lenders filed the Objections. This truncated period simply did not provide sufficient time for the Movants to draft, finalize, obtain approval of and file replies prior to the deadline set forth in the Local Rules.

13. Counsel to the Debtors, the Committee, the Ad Hoc Group of Freedoms Lenders, and the U.S. Trustee have advised that they do not oppose the Movants’ request. The Movants

believe that the replies will assist the Court in the consideration of the Motions and the Objections and will provide additional background and support for the relief requested in the Motions.

NOTICE AND NO PRIOR REQUEST

14. The Movants have provided notice of this Motion for Leave to: (a) counsel to the Debtors; (b) the U.S. Trustee; (c) counsel to the Committee; (d) counsel to the Ad Hoc Group of Freedom Lenders and (e) to the extent not listed herein, those parties requesting notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested in this Motion for Leave, the Movants respectfully submit that no further notice is necessary.

15. No previous request for the relief sought herein has been made by the Movants to this or any other Court.

WHEREFORE, the Movants respectfully request that the Court enter the proposed order submitted herewith granting the Movants leave and permission to file replies, and granting such other and further relief as the Court deems just and proper.

Dated: December 6, 2024
Wilmington, Delaware

Respectfully submitted,

LANDIS RATH & COBB LLP

/s/ Matthew B. McGuire

Adam G. Landis (No. 3407)
Matthew B. McGuire (No. 4366)
Elizabeth A. Rogers (No. 7335)
919 Market Street, Suite 1800
Wilmington, Delaware 19801
Telephone: (302) 467-4400
Facsimile: (302) 467-4450
Email: landis@lrclaw.com
mcguire@lrclaw.com
erogers@lrclaw.com

-and-

PAUL HASTINGS LLP

Jayme T. Goldstein (admitted *pro hac vice*)
Daniel A. Fliman (admitted *pro hac vice*)
Jeremy D. Evans (admitted *pro hac vice*)
Isaac S. Sasson (admitted *pro hac vice*)
200 Park Avenue
New York, New York 10166
Telephone: (212) 318-6000
Facsimile: (212) 319-4090
Email: jaymegoldstein@paulhastings.com
danfliman@paulhastings.com
jeremyevans@paulhastings.com
isaacsasson@paulhastings.com

-and-

Nicholas A. Bassett (admitted *pro hac vice*)
2050 M Street NW
Washington, DC 20036
Telephone: (202) 551-1700
Facsimile: (202) 551-1705
Email: nicholasbassett@paulhastings.com

*Counsel to the Ad Hoc Group of First Lien
Lenders and DIP Lenders*